

AMENDED IN ASSEMBLY APRIL 15, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 1969

Introduced by Assembly Member Maddox
(Coauthor: Assembly Member Harman)

February 14, 2002

An act to ~~amend Section 13269 of~~ add Section 13286.9 to the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1969, as amended, Maddox. Waste discharge requirements: ~~waivers~~ Orange County Sanitation District.

(1) *Under existing law, the State Water Resources Control Board and the California regional water quality control boards prescribe waste discharge requirements for the discharge of wastewater by publicly owned treatment works in accordance with the federal national pollutant discharge elimination system (NPDES) permit program and the Porter-Cologne Water Quality Control Act.*

This bill would require all wastewater discharged by the Orange County Sanitation District into the Pacific Ocean to be subject to at least secondary treatment requirements of federal law, and any more stringent requirements determined to be appropriate by the state board and the regional board for the Santa Ana region. The waste discharge requirements established by the bill for the district would impose a state-mandated local program.

(2) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that*

reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~Existing law, the Porter Cologne Water Quality Control Act, authorizes a California regional water quality control board to waive waste discharge requirements as to a specific discharge, or a specific type of discharge, if the waiver is not against the public intent. Existing law requires each regional board and the State Water Resources Control Board to require compliance with the conditions pursuant to which the waivers are granted.~~

~~This bill would provide that these conditions include requirements resulting to densities of total coliform, fecal coliform, and enterococcus bacteria that exceed certain sanitation standards or standards set forth in the California Ocean Plan.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. Section 13269 of the Water Code is amended to~~
- 2 *SECTION 1. Section 13286.9 is added to the Water Code, to*
- 3 *read:*
- 4 *13286.9. All wastewater discharged by the Orange County*
- 5 *Sanitation District into the Pacific Ocean shall be subject to at*
- 6 *least secondary treatment requirements pursuant to clause (B) of*
- 7 *paragraph (1) of subsection (b) of Section 301 of the Clean Water*
- 8 *Act (33 U.S.C. Sec. 1311 (b)(1)(B)), and any more stringent*
- 9 *requirements determined to be appropriate by the state board and*
- 10 *the regional board for the Santa Ana region.*
- 11 *SEC. 2. The Legislature finds and declares that this act, which*
- 12 *is applicable only to the Orange County Sanitation District, is*
- 13 *necessary because of the unique and special pollution problems*
- 14 *associated with the discharge of wastewater by the Orange County*
- 15 *Sanitation District. It is, therefore, hereby declared that a general*
- 16 *law within the meaning of Section 16 of Article IV of the California*

1 *Constitution cannot be made applicable to the district and the*
2 *enactment of this special law is necessary to protect the quality of*
3 *affected water for the public good.*

4 *SEC. 3. Notwithstanding Section 17610 of the Government*
5 *Code, if the Commission on State Mandates determines that this*
6 *act contains costs mandated by the state, reimbursement to local*
7 *agencies and school districts for those costs shall be made*
8 *pursuant to Part 7 (commencing with Section 17500) of Division*
9 *4 of Title 2 of the Government Code. If the statewide cost of the*
10 *claim for reimbursement does not exceed one million dollars*
11 *(\$1,000,000), reimbursement shall be made from the State*
12 *Mandates Claims Fund.*

13 ~~read:~~

14 ~~13269. — (a) On and after January 1, 2000, subdivisions (a) and~~
15 ~~(b) of Section 13260, subdivision (a) of Section 13263, or~~
16 ~~subdivision (a) of Section 13264 may be waived by a regional~~
17 ~~board as to a specific discharge or a specific type of discharge if~~
18 ~~the waiver is not against the public interest. Waivers for specific~~
19 ~~types of discharges may not exceed five years in duration, but may~~
20 ~~be renewed by a regional board. The waiver shall be conditional~~
21 ~~and may be terminated at any time by the board.~~

22 ~~(b) A waiver in effect on January 1, 2000, shall remain valid~~
23 ~~until January 1, 2003, unless the regional board terminates that~~
24 ~~waiver prior to that date. All waivers that were valid on January~~
25 ~~1, 2000, and granted an extension until January 1, 2003, and not~~
26 ~~otherwise terminated, may be renewed by a regional board in~~
27 ~~five-year increments.~~

28 ~~(c) Upon notification of the appropriate regional board of the~~
29 ~~discharge or proposed discharge, except as provided in subdivision~~
30 ~~(d), the provisions of subdivisions (a) and (b) of Section 13260,~~
31 ~~subdivision (a) of Section 13263, and subdivision (a) of Section~~
32 ~~13264 shall not apply to discharge resulting from any of the~~
33 ~~following emergency activities:~~

34 ~~(1) Immediate emergency work necessary to protect life or~~
35 ~~property or immediate emergency repairs to public service~~
36 ~~facilities necessary to maintain service as a result of a disaster in~~
37 ~~a disaster-stricken area in which a state of emergency has been~~
38 ~~proclaimed by the Governor pursuant to Chapter 7 (commencing~~
39 ~~with Section 8550) of Division 1 of Title 2 of the Government~~
40 ~~Code.~~

~~(2) Emergency projects undertaken, carried out, or approved by a public agency to maintain, repair, or restore an existing highway, as defined in Section 360 of the Vehicle Code, except for a highway designated as an official state scenic highway pursuant to Section 262 of the Streets and Highways Code, within the existing right-of-way of the highway, damaged as a result of fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide within one year of the damage. This paragraph does not exempt from this section any project undertaken, carried out, or approved by a public agency to expand or widen a highway damaged by fire, flood, storm, earthquake, land subsidence, gradual earth movement, or landslide.~~

~~(d) Subdivision (c) is not a limitation of the authority of a regional board under subdivision (a) to determine that any provision of this division shall not be waived or to establish conditions of a waiver. Subdivision (c) shall not apply to the extent that it is inconsistent with any waiver or other order or prohibition issued under this division.~~

~~(e) The regional boards and the state board shall require compliance with the conditions pursuant to which waivers are granted under this section, including requirements relating to densities of total coliform, fecal coliform, and enterococcus bacteria that exceed sanitation standards adopted pursuant to Section 115880 of the Health and Safety Code, or standards set forth in the California Ocean Plan adopted pursuant to Section 13170.2.~~

~~(f) Prior to renewing any waiver for a specific type of discharge established under this section, the regional boards shall review the terms of the waiver policy at a public hearing. At the hearing, a regional board shall determine whether the discharge for which the waiver policy was established should be subject to general or individual waste discharge requirements.~~